IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 590 OF 2006

Shivprasad Cooperative Housing Society Ltd. (Proposed) & Ors. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

Mr. R.V. Govilkar i/by Warerkar & Warerkar for Petitioners.

Mr. Pradeep Jadhav, A.G.P. for Respondent No. 1.

Mr. G.D. Utangale for R. No. 2.

Ms. T. Puranik for R. No. 3.

Mr. C.N. Gole for R. Nos. 4 and 5.

Mr. S.G. Surana for R. No. 6.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : MARCH 23, 2006

P.C.

. The Petitioners are a society formed on 10.8.2004 and claims membership of 190 members having structures on lands bearing C.T.S. No. 819 (P) and 855 which belongs to Respondent No. 3. The grievance of the Petitioner is that they have a membership more than that of Respondent No. 4 to whom LOI has been issued and in these

circumstances, the same ought to be set aside.

. From the record, it appears that the slum scheme has been approved only in respect of CTS No. 819 and not CTS No. 855. In other words, the scheme has to be restricted to the structures existing on C.T.S. No. 819(P) only. The Annexure II indicates that there were altogether 310 structures. The order indicates that 153 structures were found eligible and 133 have not produced their documents. In respect of 24 structures, they were found locked. In other words, in respect of 157 structures their cases have not yet been finally decided either because the documents were not produced or as they were not available. This will be more than 50% of the structures. A scheme can be sanctioned if there be more than 70% eligible hutment dwellers coming together. Prima facie, therefore, as the matter stands, LOI could not have been issued in favour of Respondent No. 4.

. Considering that the land belongs to Respondent No. 3 and enquiry has to be conducted by

Respondent No. 3, the petition can be disposed of by issuing the following directions :

(1) The Respondent No. 3 to consider the claims of the other 133 plus 24 structures. If they are found to be eligible, then to further consider whether the agreement between them and Respondent No. 4 or Petitioner Society. If Respondent No. 4 gets more than 70% then to permit Respondent No. 4 to proceed with the development. If it is less than 70% then to pass appropriate orders according to Law including recalling of the LOI issued.

. The entire exercise to be completed within six weeks from today.

. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)